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Letter dated 10 December 2002 from the Chairman of Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Tonga, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

02-74140 (E) 261202

Annex

Letter dated 9 December 2002 from the Permanent Representative of Tonga to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to attach the report of Tonga, submitted pursuant to paragraph 6 of resolution 1373 (2001), on the steps taken to implement that resolution (see enclosure). An electronic copy of the report will, in addition, be conveyed to the Counter-Terrorism Committee by e-mail.

Tonga stands ready to submit any further information requested by the Counter-Terrorism Committee on its implementation of resolution 1373 (2001).

(*Signed*) S. T. T. **Tupou**
Ambassador Extraordinary and Plenipotentiary

Enclosure

Report of Tonga to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001

Introduction

1. Tonga is fully committed to cooperating with the United Nations, its fellow Member States and the Counter-Terrorism Committee (CTC), established pursuant to United Nations Security Council resolution 1373 (2001) (UNSCR 1373), to combat international terrorism. In fulfilling her international obligations in this regard, a range of measures has been undertaken and which are detailed below.

Legislation

2. In passing the legislation required to implement UNSCR 1373, Tonga made a policy decision to deal with terrorist offences under its general criminal law prohibitions.

3. The Criminal Offences (Amendment) Bill 2002 was subsequently introduced and passed by the Legislative Assembly in October 2002.

4. The purpose of this Bill was to amend the Criminal Offences Act (Cap. 18) to include terrorist acts:

(a) The Bill created the offence of terrorism by making it an offence under the Criminal Offences Act; and

(b) Section 78A created the offence and penalty, section 78B defined an "act of terrorism" and section 78C defined "terrorist property" and provided additional penalties to those under section 78A.

5. Tonga is presently a party to three of the twelve multilateral treaties related to the global effort to counter terrorism. Privy Council, by its decision of 1 November 2002, approved that Tonga becomes a party to the remaining nine treaties. Work is currently being undertaken with regard to completing the requisite treaty formalities.

Executive Action

6. Tonga has provided political support and has offered, as far as it can as a small island developing state, to also provide assistance with intelligence support.

7. A Ministerial Ad Hoc Group has been working under the leadership of the Prime Minister, as well as an officials group to examine the existing measures to combat terrorism as well as other measures that may be required to effect not only the security of the country, but also to lend support to the global efforts to combat terrorism.

8. Appropriate measures have been put in place to strengthen the security arrangements including aviation security and border control. Work is also being undertaken on several other measures to be implemented to further enhance the existing security arrangements.

Consultations with other countries

9. Tonga has been actively participating in regional and international efforts by a number of inter-governmental organisations and which has been supported by a number of countries to raise awareness of the measures being undertaken and those further required to be undertaken to facilitate compliance with UNSCR 1373.

10. The threat of terrorism in the Pacific prior to the tragic events of 11 September 2001 was minimal. However it has become apparent that countries regardless of size, need to be prepared to cooperate and support the global anti terrorism effort as well as to put in place appropriate measures for domestic security.

11. A Pacific Regional Workshop on Combating Terrorism was held in Honolulu, Hawaii from 25 to 27 March 2002. The Workshop was co-hosted by the Governments of Australia, New Zealand, the United States of America, and the Pacific Island Forum Secretariat. The objectives of the Workshop were to encourage compliance with those Security Council resolutions aimed at combating terrorism and UNSCR 1373 in particular, and to encourage accession to and implementation of the twelve international counter-terrorism treaties.

12. At the international level, The Commonwealth has established an Experts Working Group on Legislative and Administrative Measures to Combat Terrorism which has assessed the legislative and administrative measures required by UNSCR 1373 and the special recommendations of the Financial Action Task Force (FATF) to combat terrorist financing. The Commonwealth will also be producing model legislation to implement UNSCR 1373 and the FATF's special recommendations and implementation kits on the twelve international counter-terrorism treaties.

13. At the national level, the capacity of Tonga's border controls and control of passports and travel documents has been substantially upgraded through the assistance of the Government of New Zealand. This capacity has been further enhanced with training programmes and seminars provided by regional and international institutions.

Comments in relation to the specific questions posed by the CTC:

Operative Paragraph 1

14. Tonga is committed to ensuring full compliance with the financing-related elements of UNSCR 1373. Privy Council has approved that Tonga become a party to the 1999 International Convention for the Suppression of Financing of Terrorism.

15. The Money Laundering and Proceeds of Crime Act 2000 enables the unlawful proceeds of all serious crime including drug trafficking to be identified, traced, frozen, seized and eventually confiscated. This Act also allows for the establishment of a Transaction Reporting Authority (TRA), and to require financial institutions and cash dealers to take prudential measures to help combat money laundering.

Sub-paragraph (a) – What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in your responses to question 1(b) to (d)

16. The National Reserve Bank of Tonga (NRBT) under the Money Laundering and Proceeds of Crime Act 2000 has been appointed as the TRA. Under section 11(2) of this Act, the TRA is authorised to conduct the following:

(a) shall receive reports of suspicious transactions from financial institutions and cash dealers pursuant to section 14(1);

(b) shall send any such report to the appropriate law enforcement authorities if the report gives the TRA reasonable grounds to suspect that the transaction is suspicious;

(c) may enter the premises of any financial institution or cash dealer during ordinary business hours to inspect any record kept pursuant to section 13(1), and ask any question relating to such record, make notes and take copies of the whole or any part of the record;

(d) shall send to the appropriate law enforcement authorities, any information derived from an inspection carried out pursuant to subsection (2)(c), if it gives the TRA reasonable grounds to suspect that a transaction involves proceeds of crime;

(e) may instruct any financial institution or cash dealer to take such steps as may be appropriate to facilitate any investigation anticipated by the TRA;

(f) may compile statistics and records, disseminate information within Tonga or elsewhere, make recommendations arising out of any information received, issue guidelines to financial institutions and advise the Attorney General;

(g) shall create training requirements and provide such training for any financial institution in respect of transaction record-keeping and reporting obligations provided for in sections 13(1) and 14(1);

(h) may consult with any relevant person, institution or organisation for the purpose of exercising its powers or duties under subsections (2)(c), (f), or (g); and

(i) shall not conduct any investigation other than for the purpose of ensuring compliance by a financial institution with the provisions of this Part.

17. The NRBT has written to the four financial institutions in the Kingdom to advise them of the communications received with regards to the prevention and suppression of financing of terrorist acts. The NRBT required all licensed financial institutions to report to them any transactions, which are suspected to be linked to the list of entities or persons named by the Security Council.

18. To date, there have been no reports of any activity within Tonga by any of those persons or any entities associated with those persons named by the Security Council.

Sub-paragraph (b) – What are the offences and penalties in your country with respect to the activities listed in this sub-paragraph?

19. The Criminal Offences (Amendment) Act 2002 makes the act of terrorism an offence. Under Section 78C of the Act, the Court may in addition to any penalty imposed under section 78A, (i.e. liable upon conviction to imprisonment not exceeding 25 years), order the forfeiture of:

(a) any cash, with any accrued interest or terrorist property;

(b) any article, substance, device or material by means of which the offence was committed; and

(c) any vehicle used in the commission of the offence.

20. The Money Laundering and Proceeds of Crime Act 2000 also includes, under section 17, money laundering offences, if any person:

(a) acquires, possesses or uses property knowing or having reason to believe that it is derived directly or indirectly from the commission of a serious offence;

(b) renders assistance to another person for:

(i) the conversion or transfer of property derived directly or indirectly by the commission of a serious offence, with the aim of concealing or disguising the illicit origin of that property or of aiding any person in the commission of the offence;

(ii) concealing or disguising the true nature, origin, location, disposition, movement or ownership of the property derived directly or indirectly by the commission of the serious offence.

and shall upon conviction be liable to imprisonment for a period of not exceeding 12 months or to a fine not exceeding $10,000 or both, and in the case of a body corporate to a fine not exceeding $50,000.

21. The Money Laundering and Proceeds of Crime Act 2000 defines a "serious offence" to mean, an offence against a provision of:

(a) any law of Tonga (other than this Act) for which the maximum penalty is imprisonment or other deprivation of liberty for a period of not less than 12 months or more severe penalty;

(b) a law of a foreign state in relation to acts or omissions which had they occurred in Tonga would have constituted an offence for which the maximum penalty is imprisonment or other deprivation of liberty for a period of not less than 12 months, or more severe penalty including an offence of a purely fiscal character.

22. The Extradition Act (Cap. 22) provides for extradition for these types of serious offences. A person may be extradited if found in Tonga who is accused of a relevant offence in any other country being a country designated in terms of section 4 of this Act or who is alleged to be unlawfully at large after conviction of such an offence in any such country may be arrested and returned to that country as provided by this Act. There is also provision in this Act for the treatment of a person returned from designated countries to Tonga.

Sub-paragraph (c) - What legislation and procedures exist for freezing accounts and assets at banks and financial institutions? It would be helpful if States supplied examples of relevant action taken.

23. If there is reason to believe that the provisions of relevant legislation has been breached or are likely to be breached, there are provisions under the Money Laundering and Proceeds of Crime Act 2000 and the Criminal Offences (Amendment) Act 2002 to apply for a Court order to freeze accounts and assets at banks and financial institutions.

24. The Money Laundering and Proceeds of Crime Act 2000 provides, under section 19, how to deal with the seizure and detention of suspicious imports or exports of cash. Section 19(1) provides for any authorised officer to seize and, detain, any property including cash, which is being imported into or exported from Tonga, if he has reasonable grounds for suspecting that it is:

(a) derived from a serious offence; or

(b) intended by any person for use in the commission of a serious offence.

25. Cash detained however cannot be detained for more than 24 hours after seizure, unless a judge orders its continued detention for a period not exceeding three months from the date of seizure upon being satisfied that:

(a) there are reasonable grounds for the suspicion referred to; and

(b) its continued detention is justified while it's origin or derivation is further investigated; or consideration is given to the institution in Tonga or elsewhere of criminal proceedings against any person for an offence with which the cash is connected.

26. A judge may subsequently order continued detention of the cash for a period up to two years.

27. The Act also provides for confiscation of property that is tainted property in respect of an offence.

Sub-paragraph (d) – What measures exist to prohibit the activities listed in this sub-paragraph?

28. The Money Laundering and Proceeds of Crime Act 2000 provides, under section 10, for the meaning of benefiting from the proceeds of a serious offence and includes the following:

(a) a person has benefited from a serious offence if the person has, received any proceeds of that offence;

(b) a person's proceeds of a serious offence are:

(i) any payments or other rewards received by the person at any time in connection with the commission of the offence by that person or another person;

(ii) any pecuniary advantage derived by the person at any time from the commission of the offence by that person or another person;

whether received or derived before or after the commission of the offence.

29. Section 21 of the Act provides for property tracking and monitoring orders. For the purpose of determining whether any property belongs to or is in the possession or under the control of any person, the Supreme Court may, upon the application of the TRA, make an order:

(a) that any document relevant to –

(i) identifying, locating or quantifying any such property; or

(ii) identifying or locating any document necessary for the transfer of any such property,

belonging to, or in the possession or control of that person be delivered forthwith to the TRA;

(b) that the financial institution or cash dealer forthwith produce to the TRA all information obtained about any transaction conducted by or for that person during such period as the Supreme Court directs.

Operative Paragraph 2

Sub-paragraph (a) – What legislation or other measures are in place to give effect to this sub-paragraph? In particular, what offences in your country prohibit (i) recruitment of terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

(i) Recruitment to and participation in terrorist groups

30. The Criminal Offences (Amendment) Act 2002, under section 78A, covers "[e]very person who does an act of terrorism or threatens to or to further an act of terrorism commits an offence".

(ii) Supply of weapons to terrorists

31. The Criminal Offences (Amendment) Act 2002, under section 78B, defines an act of terrorism to include:

(a) involves or causes:

(vi) the manufacture, possession, acquisition, transport, supply or use of weapons, explosives or of nuclear, biological or chemical weapons as well as research into, and development of biological and chemical weapons.

32. Section 3 of the Arms and Ammunition Act (Cap. 39) prohibits the manufacture of arms and ammunition.

33. Part III of this Act prohibits the possession of arms and ammunition except under licence (which can be obtained upon written application to the Minister of Police).

34. Section (17)(1) of this Act prohibits a person from exporting any arms or ammunition from Tonga to á place outside Tonga unless he holds a licence to do so (which can be obtained upon written application to the Minister of Police).

35. Section (18) of this Act provides for the Prime Minister, by notice in the Gazette, to prohibit the import or export of particular classes of arms or ammunitions.

36. With respect to arms and ammunition in transit, the Minister of Police may, at his discretion, with or without condition, grant, refuse, suspend or revoke transit licences covering the importation into, removal within, transportation across, exportation from Tonga of any arm or ammunition in transit.

(iii) What other measures help prevent such activities?

37. In September 2002, the Tongan Government approved a policy to amend the Shipping Act (Cap. 136) "that vessels registered and flying the Tongan flag are prohibited from conducting illegal activities such as storing and transporting illegal drugs, carrying refugees (human cargo), involving in war or armed conflict between nations or parties or support civil unrest in any country".

38. A Bill to amend the Shipping Act will be tabled to the Legislative Assembly in November 2002, which would give powers to the Registrar to strike from the register any Tongan registered ships, which engages in any of the aforementioned activities. The master of a ship so deregistered commits an offence and shall be liable upon conviction to a fine not exceeding $100,000 and forfeit any performance bond lodged with the Registrar.

Sub-paragraph (b) – What other steps are being taken to prevent the commission of terrorist acts, and in particular, what early warning mechanisms exist to allow exchange of information with other states?

39. Tonga has, since the events of 11 September 2001, reviewed its domestic and international situation with respect to the security of the nation.

40. At the national level, in July 2002, the Crown Law Department was designated as the lead Ministry responsible for the administrative measures to combat terrorism. Other relevant Ministries included in the Ad Hoc group include the Prime Minister's Office, the Ministry of Police, Immigration and the Tonga Defense Services. The NRBT and the Ministry of Finance with respect to the financing aspects will also provide support to this group.

41. At a regional level, Tonga collaborates with other Pacific Island countries including New Zealand and Australia to pool resources for gathering and analysing intelligence in support of counter terrorism efforts.

42. There are also bilateral and other multilateral relationships for cooperation with other countries at an international level.

Sub-paragraph (c) - What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this sub-paragraph? It would be helpful if States supplied examples of any relevant action taken.

43. Tonga has in place within existing legislation, adequate provisions that can be used against terrorism in this specific area. The Immigration Act (Cap. 62) prevents Tonga from being used as a safe haven for terrorists. Section 8(2)(i) of this Act gives Cabinet the power to declare any person, by order published in the Gazette, to be a prohibited immigrant. In addition, the Prime Minister may, under section (8)(2)(g), deem any person an undesirable immigrant, in consequence of information received from any source deemed by the Prime Minister to be reliable or from any Government through official or diplomatic channels.

Terrorism involving aircraft:

44. Tonga is a party to three of the four multilateral treaties dealing with terrorism involving aircraft:

(a) the 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft;

(b) the 1970 Convention for the Suppression of Unlawful Seizure of Aircraft; and

(c) the 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

45. Privy Council has approved that Tonga become a party to the fourth convention i.e.

(a) the 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)

46. The implementing legislation for these multilateral treaties is the Aircraft Offences Act (Cap. 153).

Terrorism involving ships and fixed platforms

47. Privy Council has approved that Tonga become a party to the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and its Protocol for the Suppression of Unlawful Against the Safety of Fixed Platforms Located on the Continental Shelf.

Acts of terrorism against persons

48. The Criminal Offences (Amendment) Act 2002 specifies, under section 78B(c), that an "act of terrorism" means an act which involves or causes (i) an attack upon a person's life which causes death; (ii) an attack upon the physical integrity of a person; or (iii) the kidnapping of a person.

Sub-paragraph (d) - What legislation or procedures exist to prevent terrorists acting from your territory against other States or citizens? It would be helpful if States supplied examples of any relevant action taken.

49. The Criminal Offences (Amendment) Act 2002, under section 78B, defines an "act of terrorism" in broad terms and the reference to "a country" which includes the Kingdom of Tonga, and any country outside of Tonga.

50. An "act of terrorism" is defined as an act which "may seriously damage a country or an international organisation"; and also includes an act intended or can be reasonably regarded as having been intended to seriously intimidate a population; involves or causes an attack upon a person's life which causes death; an attack upon the physical integrity of a person; the kidnapping of a person; extensive destruction to a Government or public facility, a transport system, an infrastructure facility, including an information system, a fixed platform located on the continental shelf, a public place or private property, likely to endanger human life or result in major economic loss; the seizure of an aircraft, a ship or other means of public or goods transport; the release of dangerous substances, or causing of fires, explosions or floods, the effect of which is to endanger human life; or interference with or disruption of the supply of water, power or any other fundamental natural resource, the effect of which is to endanger human life.

Sub-paragraph (e) - What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts? Please supply any examples of any convictions obtained and the sentence given.

51. As noted earlier, Tonga is a party to three of the twelve international treaties against terrorism and has incorporated the terrorist acts defined in them as serious offences in domestic legislation.

52. The Criminal Offences (Amendment) Act 2002 provides for punishment for the offence of an act of terrorism if found liable upon conviction to a term of imprisonment not to exceed 25 years. This is the maximum term of imprisonment under this Act whereas the maximum term of imprisonment for other criminal offences is one that is not to exceed 15 years.

Sub-paragraph (f) – What procedures and mechanisms are in place to assist other States? Please provide any details of how these have been used in practice.

53. Tonga has general mutual assistance legislation, which provides for mutual legal assistance with respect to investigations and prosecutions relating to terrorist acts and offences.

Mutual Assistance in Criminal Matters

54. The Mutual Assistance in Criminal Matters Act 2000 enables the widest range of international cooperation to be given and received by Tonga in investigations, prosecutions and related proceedings concerning serious offences against the laws of Tonga or those of foreign States.

55. Mutual assistance in criminal matters can be extended to a country other than Tonga; and includes every constituent part of such country, including a territory, dependency or protectorate, which administers its own laws.

56. Any foreign States can request the Attorney General for an evidence gathering order or a search warrant; consensual transfer of detained persons; restraining orders; enforcement of foreign confiscation or restraining orders; or request for location of proceeds of crimes.

Extradition

57. Section 5(1) of the Extradition Act provides that an offence of which a person is accused or has been convicted of in a designated country is a relevant offence if the offence however described is punishable both in Tonga and in the designated country concerned by imprisonment for a term of 2 years or more.

Sub-paragraph (g) – How do border controls in your country prevent the movement of terrorists? How do your procedures for issuance of identity papers and travel documents support this? What measures exist to prevent their forgery etc?

How do border controls in your country prevent the movement of terrorists?

Legislation to control the movement of Non Citizens to Tonga: (Immigration Act - Cap. 62)

58. Powers of exclusion of "undesirable immigrants" – i.e. to prevent non-citizen terrorist persons or groups from entering the country or if in Tonga to remove from the country (covered under section 8 of the Act).

59. Powers of information exchange of citizens with relevant authorities and foreign immigration authorities – the power to receive information on non citizens from foreign governments as well as to pass Tongan immigration information on to other countries; (covered under section 8 of the Act).

60. Powers to investigate non-citizens as well as request non-citizens to provide reliable information on their own character (e.g. police records). Immigration uses the wide discretionary powers of the Prime Minister and the Principal Immigration Officer under the Act to strengthen relevant procedures.

Tongan Citizens (Passport Act (Cap. 61) and the Nationality Act (Cap. 5))

61. Power to prevent Tongan citizens from leaving the country by refusing the issuance of passports. This is covered generally in the Passport Act – the Minister of Foreign Affairs can refuse the issuance of a passport if he is not convinced that an applicant is of good character.

62. Power to prevent Tongan citizens already in possession of passports from leaving the country. Under the Act, Immigration can only prevent a person from leaving if that person owes Government any money or if Immigration has received a court order preventing the person from leaving the country.

63. Exchange of information held by the Passport Section on Tongan citizens with foreign governments (as there are no laws on privity of the person, such information can be shared).

Procedures for Strengthening Border Control Measures in Tonga

64. Computerisation of Immigration functions: Immigration now has in place a computer system, which captures the data on passports for all persons entering and departing the country.

65. A new system has also been adopted for Tongans who have been deported from overseas countries – in order to prevent such "undesirable citizens" from leaving Tonga. The passport of a deportee is confiscated upon their entry into Tonga and cancelled. The issuance of a new passport will be made following a review after two years of residence within Tonga.

66. In terms of training, the Government of Australia through its Department of Immigration & Multicultural Affairs (DIMA) and the Australian Federal Police (AFP) sponsored a border control course (the training of trainers). One of the main features of the training was document examination. Although Tonga does not have the sophisticated equipment to deal with thorough document examination – it has been given access to use the expertise of Australian document examiners.

67. The Immigration Division has also adopted a new visitor's visa regime for the majority of non-citizens visiting Tonga (which was effective 1 August 2002), and certain countries are required to obtain visas before entering Tonga. The visa free regime is made available to fifty-three countries only.

Procedures for Strengthening Cooperation Between Relevant Law Enforcement Agencies in Tonga

68. Tonga is considering establishing a national Combined Law Agency Group (CLAG) as supported by the South Pacific Chiefs of Police Conference, the Oceania Customs Organisation, the Pacific Immigration Directors Conference together with the Forum Regional Security Committee Meeting and the Pacific Island Forum Leaders. The benefits of developing a national CLAG framework include:

(a) more effective and efficient use of specialist skill and resources;

(b) greater coordination between agencies within a country, thereby better meeting Government outcomes and concerns;

(c) improved opportunity for networking, including the development of trusted working relationships;

(d) information exchange enabling amore accurate picture to be developed of new and emerging criminal threats;

(e) skills transfers between members of difference agencies;

(f) better understanding of the powers and capabilities of the various law enforcement agencies;

(g) full range of legislative responses available to be applied to criminal activities;

(h) greater ability to respond to new and emerging criminal threats that often cut across single jurisdictions; and

(i) assistance in addressing integrity issues.

69. Funding at a regional level has been provided to support the development of the CLAG concept in Tonga.

Procedures for Strengthening Exchange of Information and Cooperation Between Foreign Governments

70. The Immigration Division has established a good network of contacts with its corresponding immigration authorities in Australia, New Zealand, Fiji and the United States of America. They also have an active network with relevant immigration authorities in other Pacific countries.

71. The Pacific Immigration Director's Conference has a web site on which members can post immigration information – www.pidcsec.org.

72. The Principal Immigration Officer can use the discretionary power under the Immigration Act to ensure that non-citizens grant personal authorisation to the Immigration Division to make inquiries on the said citizen. The Principal Immigration Officer, under this Act, has the power to cancel a visa if information is received on an applicant (even if a visa has already been granted) at a later stage, which suggests that person is "undesirable" (pursuant to section 11).

New Immigration Legislation Delayed in Order to Address UNSCR 1373

73. There is new Immigration legislation pending, including a Passport and Nationality Act.

74. This new legislation was drafted before the events of 11 September 2001 and was withdrawn so as to be further reviewed to attain consistency between regional governments on terrorist matters.

Operative Paragraph 3

Sub-paragraph (a) - What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph?

75. Tonga has contacts at a bilateral, regional and international level to intensify and accelerate the exchange of operational information in the areas indicated in this sub-paragraph.

76. The Ministry of Police have direct contact with other countries in the region, and internationally through INTERPOL.

77. The Customs and Immigration authorities have similar arrangements at the regional level, and were originally established to combat transnational crime as well as other comprehensive security issues and which are now included the priority area of terrorism.

Sub-paragraph (b) - What steps have been taken to exchange information and cooperate in the areas indicated in this sub-paragraph?

78. Tonga, as noted earlier, is a party to three of the twelve international treaties against terrorism and has incorporated the terrorist acts defined in them as serious offences in domestic legislation.

Sub-paragraph (c) - What steps have been taken to cooperate in the areas indicated in this sub-paragraph?

79. Tonga has legislation which provides for cooperation to take place with other countries as detailed in its reply to operative paragraph 2, sub-paragraph (f) (above).

Extradition

80. As noted in its reply to operative paragraph 2, sub-paragraph (f) (above), the Extradition Act provides, under section 5(1), that an offence of which a person is accused or has been convicted of in a designated country is a relevant offence if the offence however described is punishable both in Tonga and in the designated country concerned by imprisonment for a term of 2 years or more.

81. The list of extraditable crimes, as between Tonga and Germany, was supplemented, pursuant to Article III of an Agreement of 23 February 1960 (between Germany and the United Kingdom and which was applied to Tonga) to include hijacking of and endangering the safety of aircraft, crimes pursuant to the Convention of 14 December 1973 on the Prevention and Punishment of Crimes against Internationally Protected Persons, Including Diplomatic Agents, and all other crimes for which extradition may be granted under the law of the two contracting parties.

Sub-paragraph (d) - What are your Government's intentions regarding signing and/or ratifying the conventions and protocols referred to in this sub-paragraph?

82. Tonga is party to three of the twelve international conventions against terrorism. Approval has been granted for Tonga to become a party to the remaining nine conventions. A summary of the status of each of the twelve conventions in tabulated below:

Terrorism Conventions	Status	Date of Accession
1. Convention on Offences and Certain Other Acts Committed on Board Aircraft 1963	Instrument of Accession forwarded on 8 February 2002	13 February 2002
2. Convention for the Suppression of Unlawful Seizure of Aircraft 1970		22 February 1977
3. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation 1971		22 February 1977
4. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents 1973	Approved by Privy Council on the 2 November 2002	

5. International Convention Against the Taking of Hostages 1979	Approved by Privy Council on the 2 November 2002	
6. Convention on the Physical Protection of Nuclear Materials 1980	Approved by Privy Council on the 2 November 2002	
7. Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation 1988	Approved by Privy Council on the 2 November 2002	
8. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation 1988	Approved by Privy Council on the 2 November 2002	
9. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf 1988	Approved by Privy Council on the 2 November 2002	
10. Convention on the Marking of Plastic Explosives for the Purpose of Detection 1991	Approved by Privy Council on the 2 November 2002	
11. International Convention for the Suppression of Terrorist Bombings 1997	Approved by Privy Council on the 2 November 2002	
12. International Convention for the Suppression of Financing of Terrorism 1999	Approved by Privy Council on the 2 November 2002	

83. Tonga expects to be a party to the nine remaining conventions before the end of 2002.

Sub-paragraph (f) - What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status. Please supply examples of any relevant cases.

84. Tonga has had no cases of asylum seekers since 1 July 2002 or any reported cases prior to that time.

(a) The Immigration Act requires that all non citizens irrespective of their status as asylum seekers (over the age of 16) are to provide official documents certifying that they have no criminal record from the country of ordinary residence or from a country in which they have resided in over the last 5 years of over 6 months. (LEGAL) General power under section 9 of the Immigration Act for the Principal Immigration Officer to set conditions for applying for any permit to remain in Tonga. (ADMINISTRATIVE) The current forms for applying for any permit in Tonga includes the condition that police records are attached.

(b) The collaboration and sharing of information with relevant governments and organizations has proven to be one of the most effective tools for Tonga in ensuring that terrorists (including those using the process of an asylum seeker) to be kept out of the country. (LEGISLATION) Section 8(2)(g) gives power to the Prime Minister to exclude by declaration as a prohibited immigrant any non citizen who is deemed by the Prime Minister to be undesirable from any official information received by the Government.

(c) If a non citizen (including an asylum seeker) is not able to provide a police record from the relevant country, the Immigration Division has access to a variety of security networks (both domestic and international) for checking whether the person involved including an asylum seeker has taken part or been involved in terrorist activity.

Sub-paragraph (g) - What procedures are in place to prevent the abuse of refugee status by terrorists? Please provide details of legislation and/or administrative procedures, which prevent claims of political motivation being recognised as grounds for refusing requests for the extradition of alleged terrorists. Please supply examples of any relevant cases.

85. Section 6 (1)(a) of the Extradition Act prohibits the return of a person to a designated country or committed to or kept in custody for the purposes of such return, if the offence of which that person is accused or was convicted of is an offence of a political character.

86. The Extradition Act provides, under sections 5(a) to 5(c), the definition of what an offence of a political character does not include:

(a) an offence against the life or person of a Head of State or a [illegible]mber of his immediate family or any related offence;

(b) an offence against a Government Minister;

(c) murder or related offence;

(d) an act declared to constitute an offence under a multilateral international convention; and

(e) any offence as defined by the Genocide Act (Cap. 19).

87. Section 6 of the Act further defines, for the purpose of section 5, references to any related offence - attempting or conspiring to commit, assisting, procuring, counselling.

Operative paragraph 4

A. Other Activity

88. Tonga is a party to the Convention on the Prohibition of the Development, Production and Use of Chemical Weapons and on Their Destruction.

89. Work is currently being undertake by specialist regional law enforcement agencies to strengthen cooperation and intelligence sharing and examining the training, exchange of information and legislative requirements of UNSCR 1373 and the United Nations Convention Against Transnational Crime. The specialist regional law enforcement agencies have produced frameworks for compliance with UNSCR 1373 and to ratify the United Nations Convention Against Transnational Crime.

a. Specific Provisions – Financial Action Task Force (FATF) Special Recommendations:

90. Tonga fully supports the particular measures adopted by the FATF against money laundering.

91. In 2001, Tonga repealed the Offshore Banking Act 1984 (Cap. 110).

92. Tonga has received support from the International Monetary Fund and other bilateral donors for assessing its capabilities for introducing anti money laundering measures. Tonga is implementing the measures recommended including the creation of a Financial Intelligence Unit under the auspices of the NRBT.

93. Tonga has been working cooperatively with Pacific regional organisations and institutions to support strong regional coordination to address transnational criminal issues including drug transit and stockpiling; development of domestic drug problems; money laundering; illegal immigration scams and people trafficking; trafficking in firearms.

Counter Terrorism: Other matters

94. Tonga has a relatively straightforward organisation structure/administrative machinery, as central government agency has full responsibility for policing, immigration, customs, taxation and financial supervision and detailed as follows:

Police	Ministry of Police
Immigration Control	Ministry of Foreign Affairs
Customs	Ministry of Finance (Customs Department)

Taxation	Ministry of Finance (Inland Revenue Department)
Financial Supervision Authorities	NRBT (supervision of banks) Ministry of Labour, Commerce and Industries Development (regulation of business activity including competition) Ministry of Police (investigation of suspicious transactions and property reported by banks, financial institutions and others)

95. The coordination of the activities of these government agencies in relation to counter terrorism and to ensure full compliance with UNSCR 1373 is undertaken through an internal coordination system.

Conclusion

96. Tonga is committed to meeting its obligations under UNSCR 1373. A lot of effort has to date been made to fulfil the requirements and ensure compliance with it. In October 2002, the Criminal Offences (Amendment) Bill 2002 was introduced and passed by the Legislative Assembly to create the offence of terrorism by making it an offence under the Criminal Offences Act. In November 2002, the Privy Council approved that Tonga become a party to the remaining nine international counter terrorism conventions. Work is still ongoing with regards to enhancing cooperation domestically, regionally and internationally to facilitate full compliance with UNSCR 1373.